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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,405	06/15/2000	Josephus Martinus Maria Van Gastel	PHN-17.489	9106

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

TUGBANG, ANTHONY D

ART UNIT	PAPER NUMBER
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3729

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/594,405

**Applicant(s)**VAN GASTEL, JOSEPHUS  
MARTINUS MARIA**Examiner**

A. Dexter Tugbang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/15/04 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Election/Restrictions***

3. Claims 3 and 4 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons set forth in Paper No. 9, dated 10/17/02.

Since applicant has received an action on the merits for the originally presented invention (Group I), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 3 and 4 continue to stand as being withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hata et al.

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Hata discloses a machine comprising the following structure: a transport device (board transfer means 22 in Fig. 3); at least one feeder area (region above component supply table 28A in Fig. 2) with electrical components; a Y-slide (shown in Fig. 3) that is independently drivable in an X-direction (vertical direction of arrows in Fig. 3); and at least two placement heads (nozzles 33 on upper head section 31 and nozzles 33 on lower head section 31 in Fig. 3) on the Y-slide.

It is noted that the claimed "Y-slide" is now read as the structure defining the pair of head positioning mechanisms 41 shown in Figure 3. With respect to the "wherein..." clause (last 3 lines of Claim 1), each of the placement heads (upper and lower nozzles 33) of Hata arranged on the Y-slide (pair of head positioning mechanisms 41) move simultaneously in the X-direction (vertical direction of arrows in Fig. 3) and are independently drivable from one another in a Y-direction (horizontal arrows shown in Fig. 3). Thus, Hata fully satisfies the "wherein..." clause, as well as all of the limitations of the claimed invention.

Regarding Claim(s) 2, Hata shows a plurality of "Y-slides" (at least 4 pairs of head positioning mechanisms 41) integrally connected with each other, with each "Y-slide" having at least two placement heads and being independently drivable in the X-direction.

#### ***Response to Arguments***

5. Applicant's arguments filed in the response dated 3/15/04 have been fully considered, but have not been deemed to found as persuasive.

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In regards to the merits of Hata et al, it appears that the applicant is asserting that Hata does not teach that the at least two placement heads, each, are independently drivable in a Y-direction.

The examiner most respectfully disagrees. The fact that Hata shows at least 4 different motors 47 and 56, which operate independently from one another including the various directional arrows surrounding the head sections 31 (as shown in Fig. 3), clearly indicates that the at least two placement heads (nozzles 33 on upper head section 31 and nozzles 33 on lower head section 31 in Fig. 3) can move independent of one another in the directions indicated by the arrows.

It appears that the limitations in which the applicants are saying that Hata is deficient is the functional language recited at the "wherein..." clause (last 3 lines of Claim 1). While Hata fully meets this function as previously discussed above, the examiner fails to see how this "wherein..." clause further limits the structure of the claimed machine. It is noted that while features of an apparatus or machine may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). So how does this "wherein..." clause further limit the structure of the machine?

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Dexter Tugbang whose telephone number is 703-308-7599. The examiner can normally be reached on Monday - Friday 7:00 am - 3:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**A. Dexter Tugbang**  
**Primary Examiner**  
**Art Unit 3729**

May 14, 2004